

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 UNITED STATES OF AMERICA, :
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 - against - : 12-CR-876 (VSB)
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 PAUL CEGLIA, : ORDER
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 Defendant. :
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VERNON S. BRODERICK, United States District Judge:

I am in receipt of the Government's letter motion to hold production pursuant to Federal Rules of Criminal Procedure 16 and 17 in abeyance until Mr. Ceglia returns to the jurisdiction, (Doc. 162), and Mr. Ceglia's letter response, (Doc. 163).

The Government shall promptly produce to Mr. Ceglia's counsel all Rule 16 discovery that: (1) is in its possession as of March 8, 2015, (2) has not already been produced, and (3) would not prejudice or disclose the details of its ongoing investigation into Mr. Ceglia's whereabouts. With respect to all discoverable materials that the Government has obtained or obtains after March 8, 2015, or that would prejudice its ongoing investigation into Mr. Ceglia's whereabouts, production pursuant to Rule 16 may be held in abeyance until Mr. Ceglia's return to the jurisdiction. I have broad discretion to defer Rule 16 discovery for good cause. *See Fed. R. Crim. P. 16(d)(1); United States v. Delia*, 944 F.2d 1010, 1018 (2d Cir. 1991); *see also United States v. Rom*, 528 F. App'x 24, 26 (2d Cir. 2013) (summary order). I find that Mr. Ceglia's flight and the integrity of the ongoing investigation into his whereabouts constitute good cause to defer ongoing Rule 16 production. In any event, I will ensure that Mr. Ceglia and his counsel have adequate time to review additional discovery prior to trial. Defense counsel's request for

leave to submit further briefing on the applicability of the fugitive disentitlement doctrine is denied.

Facebook, Inc., and Mark Elliot Zuckerberg shall promptly produce to defense counsel Robert Ross Fogg all production responsive to the previously issued Rule 17(c) subpoenas *duces tecum*, (see Docs. 137, 138), with any appropriate confidentiality designations under the Amended Protective Order. In addition to his obligations under the Amended Protective Order, Mr. Fogg shall not share the production or discuss its contents in any way with co-counsel Gil D. Messina until further order of the Court. This “wall” arrangement will be revisited upon Mr. Ceglia’s return to the jurisdiction. This Order does not preclude the parties from agreeing to additional protocols related to this “wall” arrangement.

In a separately filed order, I am authorizing the disclosure to the prosecution team of documents previously withheld by some of Mr. Ceglia’s former civil attorneys under a claim of attorney-client privilege.

Mr. Ceglia’s counsel has requested leave to move for an order authorizing the issuance of additional Rule 17(c) subpoenas *duces tecum* pertaining to Mr. Zuckerberg’s emails stored on Harvard University servers and Mr. Zuckerberg’s computer hard drives. The request for leave is denied. This denial is without prejudice to the renewal of the request upon Mr. Ceglia’s return to the jurisdiction. However, at this late stage, Mr. Ceglia must show good cause for the filing of additional substantive motions other than motions in limine, (see Doc. 135, at 49:1-12), and I note that counsel’s letter failed to provide a justification for Mr. Ceglia’s significant delay in making this request.

The Clerk of Court is respectfully directed to terminate the pending letter motion at Doc. 162.

SO ORDERED.

Dated: March 30, 2015
New York, New York


Vernon S. Broderick
United States District Judge